

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

BOARD MEETING

JUNE 15, 2004

President Joe Baumgartel called the meeting to order at 1:00 P.M. at the Gaylord Opryland Convention Center in Nashville, Tennessee.

Board members present were Joe Baumgartel, President, Bob Arrington, Vice President, Danny Cook, Wendy Hellum, Bob Foster, Ralph Buckner, Jr., and Wayne Hinkle.

Staff members present were Robert Gribble, Executive Director, Marilyn Tucker, Legal Counsel, Bill Luna and Jimmy Kesey, Field Representatives, Leslie Carol Hogue and Michelle Poteete, Administrative Assistants.

APPROVAL OF MINUTES:

MOTION: Motion was made by Mr. Arrington to approve the minutes of the May 11, 2004 meeting of the Board of Funeral Directors and Embalmers.

The motion was seconded by Mr. Hinkle.

Adopted by voice vote

APPEARANCES BEFORE THE BOARD:

**Doyle Dean Lay, Jr., Manager
Cumberland Funeral Home – Monteagle, TN
Respondent – Complaint #200208001**

Board member Bob Foster recused himself regarding this particular complaint.

Ms. Marilyn Tucker, Legal Counsel for the Funeral Board, presented the complaint brought by Mr. James E. Gipson against Mr. Dean Lay and Cumberland Funeral Home. Mr. Gipson appeared before the board at the May 11th board meeting. Mr. Lay was requested to appear before the board to have an opportunity to present his response in person before the Board.

Ms. Tucker stated she will present this matter in its entirety at the next board meeting.

**Mary Kathryn Patton, Funeral Director
Nashville, TN**

Ms. Mary Kathryn Patton appeared before the board after a six month probation period to reaffirm that she is fully aware of the duties of a funeral director, and that she and her staff understand all the regulations. This matter was relative to the signing of a power of attorney.

Ms. Marilyn Tucker stated the complaint could now be closed.

Paul Parham, Manager
T. H. Hayes & Sons – Memphis, TN

The Board had requested additional information and documentation concerning the amount of time which Mr. Parham had been working with the Memphis City Schools while serving as a full-time manager of a funeral home.

Ms. Marilyn Tucker said that she would reopen this complaint and bring it before the board as a legal matter at the next board meeting.

APPROVAL OF FUNERAL DIRECTOR AND/OR EMBALMER LICENSES: Upon motion, based upon the application records, the following applicants were approved for licenses.

ANTONIO SENTELL PENDELTON MADISON, AR	FUNERAL DIRECTOR/EMBALMER RECIPROCITY
CHARLES WESLEY HODGES HUNTINGDON, TN	FUNERAL DIRECTOR
HOWARD G. TRIPPETT ATHENS, TN	FUNERAL DIRECTOR
ROBERT STEWART SYKES CLARKSVILLE, TN	EMBALMER
LORI JEAN GREGORY GREENBRIER, TN	FUNERAL DIRECTOR/EMBALMER
COLLIN ISAAC HAMRICK CHATTANOOGA, TN	FUNERAL DIRECTOR/EMBALMER
CHARLES WINSTON HOOVER, IV HERNANDO, MS	FUNERAL DIRECTOR/EMBALMER
SARAH ELAINE SMITH COLUMBIA, TN	FUNERAL DIRECTOR/EMBALMER

APPROVAL OF FUNERAL ESTABLISHMENT LICENSES: Upon motion, based upon the application records, the following applicants were approved.

MCKISSACK-BROOKS-FITZGERALD FUNERAL DIRECTORS NASHVILLE, TN	NEW ESTABLISHMENT
SUPERIOR FUNERAL HOME 1609 ELVIS PRESLEY BLVD. MEMPHIS, TN	NEW ESTABLISHMENT (EMBALMING FACILITY ONLY)
SHERWOOD FUNERAL HOME ALCOA, TN	NAME CHANGE
DICKSON FUNERAL HOME DICKSON, TN	OWNERSHIP CHANGE
DICKSON FUNERAL HOME FAIRVIEW CHAPEL FAIRVIEW, TN	OWNERSHIP CHANGE
DICKSON FUNERAL HOME WHITE BLUFF CHAPEL WHITE BLUFF, TN	OWNERSHIP CHANGE
CARR-HELLUM FUNERAL HOME, LLC HARTSVILLE, TN	OWNERSHIP CHANGE
HELLUM FUNERAL HOME, INC. MURFREESBORO, TN	OWNERSHIP CHANGE
J. C. HELLUM FUNERAL HOME, LLC LEBANON, TN	OWNERSHIP CHANGE
MCMINNVILLE FUNERAL HOME MCMINNVILLE, TN	OWNERSHIP CHANGE
MILLINGTON FUNERAL HOME, INC. MILLINGTON, TN	OWNERSHIP CHANGE
PIKEVILLE FUNERAL HOME PIKEVILLE, TN	OWNERSHIP CHANGE
SEQUATCHIE VALLEY MEMORIAL FUNERAL HOME JASPER, TN	OWNERSHIP CHANGE

STOCKDALE - MALIN FUNERAL HOME
BIG SANDY, TN

OWNERSHIP CHANGE

STOCKDALE - MALIN FUNERAL HOME
CAMDEN, TN

OWNERSHIP CHANGE

TALLENT FUNERAL HOME
MADISONVILLE, TN

OWNERSHIP CHANGE

**LEGAL REPORT:
MARILYNN TUCKER, STAFF ATTORNEY**

**Case Review
(1) #200418907**

COMPLAINT: Mississippi funeral home owner holding funerals in TN as an unlicensed establishment.

RESPONSE: None received yet.

RECOMMENDATION: A Cease and Desist and Consent Order with a Civil Penalty was sent for \$3,000.00. Investigation underway, but not yet completed, for possible prosecution.

This matter was presented to the Board at this meeting for informational purposes only. The staff attorney did not request a motion regarding this complaint.

(2) #200418705

COMPLAINT: Family unhappy with visitation, appearance of deceased, graveside services, etc.

RESPONSE: FH sent out a letter of apology to each person on complainant's list that needed an apology. Plus, FH has rectified another issue by presenting an American flag to the family of deceased.

RECOMMENDATION: Letter of Caution. FH apologized for service, sent flag, but did not offer reasons for poor performance in response.

MOTION: Motion was made by Mr. Arrington to accept counsel's recommendation.

Seconded by Mr. Foster

Adopted by voice vote

(3) #200419187

COMPLAINT: Another woman's body was in the casket, which was supposed to contain the body of complainant's mother. Bodies were disinterred and mistake was confirmed.

RESPONSE: FH responds that once it was brought to their attention by the other family, it accepted blame and quickly rectified the situation and did not charge the complaining families for either funeral.

RECOMMENDATION: FH already fined for similar problem, i.e. not tagging bodies. Fine \$500.00 for unprofessional conduct.

MOTION: Motion was made by Mr. Arrington to accept counsel's recommendation.

Seconded by Mr. Hinkle

Adopted by voice vote

(4)#200208001

Complaint involves a TN FH in Tri-State Crematory matter. Response is to be heard in-person on today's agenda. **Case will be presented in its entirety at the next meeting.**

STAFF REPORT:

ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR

(1) DISCIPLINARY ACTIONS

The Consent Orders have been signed and the Civil Penalties have been paid in full. The Executive Director requests the board's acceptance and approval of the Consent Orders:

Complaints:

Complaint #	Action/Penalty	Statute/Rule
200418098, 200418099, 200418100	Consent Order with Civil Penalty of \$800.00 (funeral home)	TCA §62-5-317(b)(3) – Solicitation is prohibited Rule 0660-6-.02 – Price lists are mandatory (FTC)
<p>Status: A Consent Order with civil penalty of \$800 was issued. The Consent Order has been signed and will be presented to the Board for acceptance at today's meeting.</p> <p>MOTION: Motion was made by Mr. Arrington to accept Consent order and penalty.</p>		

Seconded by Mr. Hinkle

Adopted by voice vote

Complaint #	Action/Penalty	Statute/Rule
200418098, 200418099, 200418100	Consent Order with Civil Penalty of \$800.00 (individual)	TCA §62-5-317(b)(3) – Solicitation is prohibited Rule 0660-6-.02 – Price lists are mandatory (FTC)

Status: A Consent Order with civil penalty of \$800 was issued. The Consent Order has been signed and will be presented to the Board for acceptance at today's meeting.

MOTION: Motion was made by Mr. Arrington to accept Consent order and penalty.

Seconded by Mr. Hinkle

Adopted by voice vote

BOARD ACTION DURING FEBRUARY 10, 2004:

Action/Penalty	Statute/Rule
Consent Order with Civil Penalty of \$300.00	TCA §62-5-304 – An establishment must be licensed

CITATIONS ISSUED BY FIELD REPRESENTATIVES DURING INSPECTIONS:

Citation Issued To:	Action/Penalty	Statute/Rule
Wendell J. Naylor, Manager M. J. Edwards Whitehaven Funeral Chapel Memphis, TN	Consent Order with Civil Penalty of \$4,000.00	TCA §62-5-313(d)(1) – Permanent ID device Rule 0660-6-.02 et seq. – FTC Price Requirements
<p>Status: A Consent Order with civil penalty of \$4000.00 was issued. The Consent Order has been signed and will be presented to the Board for acceptance at today's meeting.</p> <p>MOTION: Motion was made by Mr. Arrington to accept Consent order and penalty.</p>		

Seconded by Mr. Foster		
Adopted by voice vote		
Citation Issued To:	Action/Penalty	Statute/Rule
Evelyn R. Cooper, Manager M. J. Edwards & Sons Funeral Chapel Memphis, TN	Consent Order with Civil Penalty of \$2,020.00	TCA §62-5-313(d)(1) – Permanent ID device Rule 0660-6-.02 et seq – FTC Price Requirements
<p>Status: A Consent Order with civil penalty of 2,020.00 was issued. The Consent Order has been signed and will be presented to the Board for acceptance at today's meeting.</p> <p>MOTION: Motion was made by Mr. Arrington to accept Consent order and penalty.</p> <p>Seconded by Mr. Cook</p> <p>Adopted by voice vote</p>		

2. CONTINUING EDUCATION

The Executive Director does not recommend any licensees for approval of extension of time regarding completion of the continuing education requirements.

OTHER BUSINESS:

Mr. Alfred Thomas Tacker, a Funeral Director of Memphis who is licensed in the State of Tennessee, addressed the board on the issue of price lists and the signing of contracts, especially the "Statement of Goods and Services Selected." He questioned the rules and regulations on whether a licensed funeral director must be present for the signing of contracts and the statutory requirements thereof. He thinks some funeral directors have been fined unfairly. He feels there is no legal basis for requiring a licensed funeral director to sign the "Statement of Goods and Services Selected." The members of the Board stated that they are clear on their decision relative to the requirement that the "Statement of Goods and Services Selected" must be signed by a licensed funeral director. Ms. Marilyn Tucker confirmed the state laws are clear concerning the duties of a funeral director. Mr. Baumgartel, the Board President, stated that licensed funeral directors are accountable for their actions or lack thereof.

MOTION: Motion was made by Mr. Arrington to adjourn.

Seconded by Mr. Foster

Adopted by voice vote

There being no further business, the meeting was adjourned at 3:35 P.M.

Respectfully submitted,

Robert B. Gribble
Executive Director